HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO. 20542 OF 2005

Dated 26-09-2005

Between:

N. Vallinayagam, son of Nataraja Sthapathy, aged about 55 years, Occupation: Sthapathy, Office of the Commissioner of Endowments, Tilak Road, Abids, Hyderabad..

…….Petitioner.

And:

1 . The Principal Secretary to Government, Revenue (Endowments) Department, Secretariat Buildings, Hyderabad and others.

…….Respondents.

ORDER : (Per the Honourable Smt. Justice T. Meena Kumari)

This writ petition has been filed against the order passed in O.A. No. 8377 of 2003, on 27-06-2005 by the A.,P. Administrative Tribunal, Hyderabad.

The petitioner is the applicant herein, He applicant filed an application in O.A.No. 8377 of 2003 under section 19 of the Administrative Tribunals Act, 1985 seeking to direct the respondents to consider his case for promotion to the post of Stapathi duly taking into consideration of the Rule - 14 of the Special Rules issued in G. O. Ms. No. 245, Revenue (Endt. I) Department, dated 08-05-2002, as done by the respondent No. 2 in proceedings Rc. No.E1/31659/94 dated 11-1-2003 with

observation that rules issued on 8-9-2002 will not adversely affect the persons already in service prior to issue of the special rules as he is senior-most in the category of Deputy Stapathi and fully eligible and qualified for promotion to the post of Stapathi. The Tribunal having observed that admittedly, the applicant does not possess a pass in 10th Class Examination or its equivalent examination and therefore, his appointment cannot be upheld, dismissed the O.A. Aggrieved by the same, the present petition has been filed by the applicant.

Heard both sides. We have perused the material available on record.

We have perused the material available on record. A perusal of saving clause in rule 24 issued in G.O. Ms. No.245 Revenue (Endts. I) dated 8th May, 2002, goes to show that nothing in these rules shall adversely effect any person who is working in any of these posts before the commencement of these rules. It further goes to show that for promotion from Dy. Stapathi, one must have passed 10th Examination or its equivalent examination and must be able to read and write Telugu, Sanskrit, English and Grandhakshara lipi.

The case of the applicant is that he need not possess the 10th Class examination by virtue of Saving Clause contained in Rule 14 of the Special Rules issued in G.O. Ms. No. 245, Revenue (Endt. I) Department, dated 08-05-2002.

It is contended by the learned counsel appearing on behalf of the applicant that his case for promotion to the post of Stapathi can be considered duly taking into consideration Rule-14 of the Special Rules issued in G.O.Ms.No.245, Revenue (Endt. I) Department, dated 08-05-2002, as done by the respondent No.2 in proceedings Rc.No.E1/31659/94 dated 11-1-2003 with observation that rules issued on 8-9-2002 will not adversely affect the persons already in service prior to issue of the special rules as he is senior-most in the category of Deputy Stapathi and fully eligible and qualified for promotion to the post of Stapathi and therefore, the applicant is entitled to the promotion to the post of Stapathi.

On the other hand, the contentions raised by the learned counsel for the applicant is opposed by the learned G.P. for services I and it is argued that the applicant is not entitled to promotion as he does not fulfil the required qualification.

We see some force in the contention of the learned counsel for the applicant

that the applicant need not possess a pass in the 10th Class examination by virtue of Saving Clause as contained in Rule 14 of the Special Rules issued in G.O. Ms. No. 245, Revenue (Endt. I) Department, dated 08-05-2002.

Apart from that, the G.O. does not go to show that it has retrospective effect. In the absence of such applicability as to the retrospective effect and in view of the saving clause, We feel that it cannot be said that the persons who are holding the post of Dy. Stapathi, are not entitled for promotion on the ground that they did not possess a pass in 10th class. The tribunal has failed to consider all these aspects and as such, the tribunal is not justified in dismissing the O.A. filed by the applicant. Therefore, the order of the tribunal is liable to be set aside.

Accordingly, this writ petition is allowed setting aside the order of the tribunal.

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Justice T. MEENA KUMARI

Date: 26th September, 2005

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Justice P. LAKSHMANA REDDY

Dvs/Gurc

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&

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WRIT PETITION NO. 20542 OF 2005

(Order delivered by the Honourable

Smt. Justice T.Meena Kumari)

Dated 26-09-2005